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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/361,893	07/27/1999	CHRISTOPHER L. MCCRANK	2000.009700	6115
23720	7590	02/08/2005		
WILLIAMS, MORGAN & AMERSON, P.C. 10333 RICHMOND, SUITE 1100 HOUSTON, TX 77042			EXAMINER CHANG, EDITH M	
			ART UNIT	PAPER NUMBER
			2637	

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/361,893

Applicant(s)

MCCRANK ET AL.

Examiner

Edith M Chang

Art Unit

2637

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED January 18 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:

REGARDING THE TAKI REFERENCE:

1) The applicants argue that the Taki does not call for changing frequencies within a particular frame, and does not disclose changing the frequency within this particular frame.

Taki does call for selecting and setting frequencies during a time period within the first time frame as cited in the claims, wherein the first time frame is the particular frame comprising the sections 51, 52 and 53 of FIG.3 as stated in column 2 lines 44-57 and column 4 lines 40-45. In the first phase (sections 51, 52 and 53) the main device (base station) selecting the frequency of the second phase (section 54) to communicate with the selected device (mobile station). Besides, the "particular frame" is not the claim language cited in the claims.

2) The applicants argue that the frequency hop phase 51 is at the beginning of the frame. Therefore, the frequency is only changed between frames and not within the frame.

The frequency hop phase 51 is at the beginning of the frame as stated by applicants, therefore, the hop phase is within the frame. In FIG.3, Taki explain the frame structure (column 3 lines 9-11 & column 4 lines 36-40).

3) The applicants argue that upon completion of the frame (the first time frame), the next frequency (the second frequency) switching is performed at the beginning of the next frame (the second time frame). Therefore, a second frequency is only chosen after the completion of a frame and not within the frame.

Before switching (or setting) to the next frequency, the next frequency has to be selected (or chosen) first, Taki teaches selecting a second frequency during a time period within the first time frame and setting over the second frequency during a second time frame as cited in the claims. Wherein selecting during the section 53 of the first time frame and setting over the second frequency during the second time frame which is the section 54 to receive or transmit respectively. Therefore Taki teaches THE INVENTION CITED IN THE CLAIMS (refer to the rationale of the rejections of claims 1 & 11 of the previous office action).

4) The applicants argue that Taki makes the changing of the frequencies occurs at the frequency hop phase of the frame, and does not disclose changing the frequency within the frame.

As applicants stated that the changing of frequencies occurs at the frequency hop phase of the frame, the changing of frequencies occurs within the frame, since the hop phase is within the frame. According to the reference, Taki teaches selecting frequencies during a time period within the first time frame (sections 51 to 53) and setting the frequency during a second time frame (section 54) to transmit or receive respectively AS CITED IN THE CLAIMS (refer to the rationale of the rejections of claims 1 & 11 of the previous office action). Hence Taki discloses or suggests or teaches the elements of claims 1 and 11.

5) The applicants argue that Taki does not apply for changing frequencies within a frame.

The "changing frequencies within a frame" is not the claimed language cited in the claims. If the changing is the selecting, Taki teaches selecting frequencies within the first time frame; if the changing is the setting, Taki teaches setting the selected frequency during a second time frame AS CITED IN THE CLAIMS 1 and 11. Hence Taki discloses or suggests or teaches the elements of claims 1 and 11.

REGARDING THE KUNG REFERENCE:

6) The applicants argue that Kung does not make for the deficit of Taki.

In Fig.2, Taki teaches a frequency synthesizer (40) to set/change the frequency to provide the carrier frequency f_N , and the structure of frequency synthesizer is well known in the art such as taught by Kung. Taki and Kung are both in the same endeavor (wireless frequency hopping communication system) and have the same objective to provide a quick and accurate signal exchange, the implementation of the frequency synthesizer (40 FIG.2) of Taki can be implemented and detailed by a well known structure of the frequency synthesizer such as Kung's teaching.

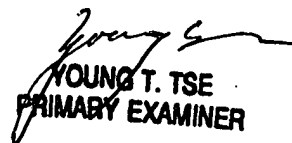
7) The applicants argue that Kung does not have the multiplying the initial frequency.

Kung teaches the multiplying the frequency stated in column 3 lines 20-28, moreover, the programmable divider (32 FIG.1) multiplies the frequency by $1/N$. Hence, Kung teaches the multiplying the initial frequency.

REGARDING THE DEUTSCH REFERENCE:

8) The applicants argue that adding the disclosure of Deutsch does not make up for the deficit of the Taki and Kung.

Taki's base/mobile station (FIG.2) implemented with Kung's frequency synthesizer teaches the subject matter claimed in the independent claims 1 and 11. The external telephone circuit coupled to the base station stated in column 3 lines 45-49 of Taki, is the PSTN taught (or specified explicitly) by Deutsch. Hence, the claim 20 is obvious.


YOUNG T. TSE
PRIMARY EXAMINER